IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 14754 of 2005(F)

AGAINST THE ORDER DATED 3.2.05 IN EP.112/2004 IN OS.419/2003 of PRL.M.C., KOCHI

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PETITIONERS:

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1. K.P.CHANDRAN, AGED 46, S/O.PAPPY, RESIDING AT KONNATH HOUSE, H.NO.18/2235, PALLICHAL ROAD, THOPPUMPADY, COCHIN-682 005.

2. K.P.PRATHAPAN, AGED 41, S/O.PAPPY, RESIDING AT KONATH HOUSE, H.NO.18/2235, PALLICHAL ROAD, THOPPUMPADY, COCHIN-682 005.

BY ADV. SRI.K.C.ELDHO

RESPONDENT:

EBEN-EZER KURIES AND ENTERPRISES, COCHIN-5, REP. BY ITS MANAGING PARTNER, K.JOSEPH, S/O.ANTONY, AGED 50, RESIDING AT CC 16/1648, WELFARE ROAD, THOPPUMPADY, COCHIN-682 005.

BY ADV. SRI.P.T.JOSE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.14754/05

APPENDIX

PETITIONERS' EXTS:

EXT.P1 – TRUE COPY OF EP 112/04 IN O.S.419/03

EXT.P2 – TRUE COPY OF OBJECTION IN EXT.P1 EP

EXT.P3 – TRUE COPY OF ORDER DT.3.2.05 IN THE ABOVE E.P.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.14754 OF 2005

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DATED THIS THE 18TH JUNE, 2007

J U D G M E N T

Ext.P3 order finding that the petitioners are having means to pay the decree debt and they have wilfully neglected to pay the same and on that basis directing the petitioners' arrest in execution of a money decree is under challenge in this Writ Petition.

2. I do not find any warrant for interfering with Ext.P3 in the visitorial jurisdiction of this Court under Article 227. I notice that while admitting this Writ Petition and granting stay, this Court imposed a condition that a sum of Rs.5000/- be paid. It is submitted by the learned counsel for the respondent that the above condition was duly complied with by the petitioners. The balance amount, according to counsel, will be around Rs.20,000/-.

3. Under these circumstances, even as I confirm Ext.P3, there will be a direction that the order of stay presently passed will remain in force for another five months from today on condition that the petitioners pay to the respondent every month commencing from 16.7.2007 at the rate of Rs.5000/-, till such time as the entire decree debt is wiped off. In the event of default in the matter of paying the instalments as ordered above, the petitioners will forfeit the benefit of

this judgment and under such an event, Ext.P3 will revive and it will be open to the court below to see that the petitioners are arrested and detained in civil prison.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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